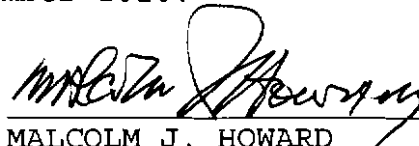


motion to dismiss presently before the court on August 12, 2010. Plaintiffs have not responded to defendant's motion.

Rule 4(m) of the Federal Rules of Civil Procedure requires that service of the summons and complaint be made within 120 days after the filing of the complaint. Rule 4(m) further provides that the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to any defendant not timely served unless the court extends the time for service upon a showing of good cause. Fed. R. Civ. P. 4(m).

More than five months have elapsed since the court's June 15, 2010, order, informing plaintiffs of their failure to make proof of service. Plaintiffs have neither made proof of service nor requested an extension of time to do so. Accordingly, defendant's motion [DE #25] is GRANTED and this action is DISMISSED without prejudice for failure to effect service within the time prescribed by Rule 4(m). The clerk is directed to close the case.

This 1st day of December 2010.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
#31